

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 98-026

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

### 2. Form, Style and Placement in Administrative Code

a. SECTION 3 of the rule purports to amend paragraphs in s. DWD 11.195 (3). Is it the department’s intent instead to amend paragraphs in s. DWD 12.25 (3). In addition, the treatment clause purports to amend pars. (a) and (b), yet only par. (a) is treated. This SECTION should be reviewed to make sure it accomplishes its intended purpose.

b. SECTION 4 should follow SECTION 7 of the rule because the rule should be arranged so that it treats provisions in the numerical order of the provisions as they appear in the rules at the time of drafting.

c. In the treatment clause of SECTION 5, the respective treatments should be more clearly identified. For example, the treatment clause could be amended as follows: “DWD 12.25 (3) (b), (c) to (g), (j), (k), (L) and (n) are renumbered DWD 12.25 (3) (c), (e) to (i), (L), (m), (o) and (p).”

d. SECTION 6 should be combined with SECTION 5. In addition, although it purports to treat s. DWD 12.25 (3), the reference in the text of the amendment in SECTION 6 is to s. DWD 11.195 (3).

e. In s. DWD 12.25 (3) (h), the definition of “learnfare” should also contain a reference to “this SECTION” or “s. DWD 12.25.” In addition, because s. 49.26, Stats., and s. DWD 12.25 adequately identify the learnfare program, it is unnecessary to further define it. Thus, all of the remaining material beginning with the word “which” could be deleted. (See the treatment of the definition of “school” in par. (L).)

f. In s. DWD 12.25 (4) (e), since “dropout” is defined earlier in the rule to be a child, the phrase “child who is a dropout” is redundant. Simply referring to the “dropout” is sufficient. In addition, it appears that the phrase “child’s nonattendance” should be replaced by the phrase “dropout’s nonattendance.”

g. Throughout the rule, subdivision numbers should be followed by a period. This was done correctly in s. DWD 12.25 (9) (a) 1. However, a period needs to be inserted after subdivision numbers in a number of provisions. For example, see SECTIONS 15, 16, 23, 31 and 32.

h. SECTION 22 of the rule purports to amend the title to s. DWD 12.25 (7). However, the reference to sub. (7) does not appear in the amended version of the title. In addition, SECTIONS 22 and 23 should be combined. Also, since s. DWD 12.25 (7) (a) 8. b. is unaffected, it should not be shown and the treatment clause should be modified accordingly.

i. SECTION 31 of the rule purports to repeal and recreate s. DWD 12.25 (9) (a) 1. However, the recreated provision is shown with strike-throughs and underscores. It should not be. It should be shown as it will appear after promulgation. [See s. 1.06 (5), Manual.]

j. The effective date provision should be in an unnumbered provision of the rule. [See s. 1.02 (4) (d), Manual.]

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the last sentence of s. DWD 12.25 (4) (c), the phrase “no eligibility for a W-2 employment position exists” is awkward. For purposes of clarity, the sentence should be rewritten. It might be rewritten as follows: “If neither the child nor the W-2 participant cooperate, the W-2 participant shall be ineligible for a W-2 employment position.”

b. Section DWD 12.25 (5) (c) refers to a “child’s school district.” In light of the recent enactment of public school open enrollment in 1997 Wisconsin Act 27, the rule may need to be clarified as to which district, i.e., the school district of residence or the school district of attendance, constitutes the “child’s district.”

c. It is unclear why the rule deletes the word “following” and the colon in s. DWD 12.25 (7) (a) (intro.) since current drafting convention dictates that introductory material end with a colon. [See s. 1.03 (8), Manual.] A similar change in s. DWD 12.25 (9) (a) 2. (intro.) should be changed back to retain the colon. In s. DWD 12.25 (10) (b), “following circumstances:” should replace “circumstances listed in this paragraph.”

d. In s. DWD 12.25 (9) (b), the rule appears to impose a financial penalty on a child who fails to comply with his or her school attendance requirements. It appears that the penalty should apply to the W-2 group.

e. Section DWD 12.25 (11) (a) 1. is unclear. Does the \$50 per child penalty apply only to the children who fail to meet the school attendance requirement or otherwise fails to cooperate or does it apply to all children in the W-2 group regardless of whether only one failed to meet

the school attendance requirement? This provision should be clarified. Paragraph (c) makes it appear as though the penalty is applicable only to the child that fails to meet the attendance requirement or otherwise cooperate.

f. Section DWD 12.25 (10) (b) 3. provides that any court appearance for a victim of domestic abuse is considered to be required and thus is a good cause reason for not participating in case management. However, this provision may be too broad. For example, if a victim of domestic abuse voluntarily appears in traffic court to testify on behalf of a friend, will that be considered good cause? Or is the intent to provide that a domestic abuse victim who attends court on a domestic abuse-related matter has good cause? The provision should be clarified.

g. The parenthetical material in s. DWD 12.25 (10) (b) 7. should be rewritten to provide that in the subdivision “family member” means a spouse, child or parent. [See s. 1.01 (6), Manual.]

h. Section DWD 12.25 (10) (b) 10. is confusing. Are the circumstances that may be identified in a review decision limited to those in subds. 1. to 11.? Or can the review decision identify other circumstances? Also, what is a review decision? If possible, a cross-reference should be provided.